

OVERVIEW

Every youth receiving Michigan Department of Health and Human Services (MDHHS) services by court order is entitled to a hearing to determine if the youth should remain under the court's jurisdiction. The result of these reviews/hearings can be an order for discharge or for continued supervision which may include an order for change of the placement or case service plan. The juvenile justice specialist (JJS) is to work closely with families and service and treatment providers in the preparation of reports for court progress reviews, and in the development of aftercare or reentry plans to be presented to the court. It is mandatory for the JJS to attend all court scheduled hearings/reviews.

DEFINITIONS

Release

Termination of a residential placement by order of the committing or referring court.

Discharge

Termination of wardship as ordered by the committing or referring court. Results in closing of the relevant program, for example juvenile justice, and closing of the juvenile justice case.

CRIMINAL COURT

Youth 14 years of age or older can be tried as a result of an automatic or traditional waiver, MCL 712A.4(1) which occurs if the youth has been charged with an offense listed in MCL.769.1(1)(a)(I); See [JJM 210, Waiver Proceedings and Pre-Sentence Investigations](#).

JUVENILE COMPETENCY HEARING

A competency evaluation can be requested by court motion, the juvenile, juvenile's attorney or prosecuting attorney. A recommendation for a competency evaluation can occur at any point **prior** to adjudication. See [JJM 210, Waiver Proceedings and Pre-Sentence Investigations](#), *Juvenile Competency* for criteria to evaluate prior to a recommendation that the court should order a competency evaluation. See [MDHHS-PUB-1213 Juvenile Competency Flow Chart](#), for time frames and purposes of hearings.

PRELIMINARY HEARING

The preliminary hearing is held to determine whether the petition should be dismissed, the matter should be diverted, heard on the consent calendar or to continue the preliminary hearing. MCR 3.935(B)(3). The court may request the JJS to submit a court report and attend the hearing prior to a referral or commitment order.

PRETRIAL HEARING

The JJS must consult with local court policies for responsibilities related to a pretrial hearing.

A pretrial hearing is held to review:

- Information and evidence that the parties must provide one another before trial, and the information and evidence that the parties may obtain after filing a motion.
- Technical rules for filing written motions in a delinquency case, and when a court is required to conduct an evidentiary hearing.
- Constitutional, statutory, and court rule requirements for the admissibility of identification testimony, juvenile confessions, and evidence seized by police.
- Juvenile competency requirements.
- Requirements necessary to raise an alibi or insanity defense.
- Juvenile's right to jury trial and trial by judge.
- Closing delinquency proceedings, ordering special protections for a witness, and venue issues.

ADJUDICATION HEARING

An adjudication hearing is held to determine whether a youth has committed a criminal law, civil infraction or status offense. This may include a trial, plea or dismissal.

JJS Responsibilities

An adjudication hearing may require a court report containing the following:

**DISPOSITIONAL OR
SENTENCING
HEARING**

- Current charges.
- Family history.
- Permanency plan.
- Treatment needs and recommendations.
- Placement recommendations.
- Conditions of Placement Agreement.

When a juvenile is charged as an adult see [JJM 210, Waiver Proceedings & Pre-Sentence Investigations](#), for responsibilities on pre-sentence investigation report prior to sentencing hearing.

The dispositional hearing determines what measures the court will take concerning the juvenile. MCR 3.943(A). If it is determined the youth has committed an offense, the court may then order a disposition as provided by MCL 712A.18.

The number of days between the plea of admission or trial and disposition is within the court's discretion. Except for good cause, the interval may not be for more than 35 days between the plea of admission or trial and disposition when the youth is detained. MCR 3.943(B).

For JJS responsibilities see *adjudication* in this item. The JJS may need to prepare for adjudication and disposition or sentencing to occur on the same day.

**DISPOSITIONAL
REVIEW HEARING**

Dispositional review hearings are held to:

- Review the progress of the juvenile, the juvenile's parents, or custodian.
- Provide the opportunity to review any reports and hear testimony from the JJS and other persons providing services to the youth or his/her family.
- Determine the appropriateness of the case services plan by assessing the following areas:
 - Appropriateness of services.
 - Parent/legal guardian participation in services.

- Appropriateness of placement.
 - Juvenile's participation in services.
 - Juvenile's behavior in the current placement.
 - Progress of treatment.
 - Permanency planning.
- Supplement or amend an order in delinquency cases as long as the youth remains under the jurisdiction of the court. MCR 3.945(A)(1).
 - Meet federal guidelines for Title IV-E funding. 42 U.S.C. 675(5)(B).

Out-of-Home Placement

If the youth is placed in out-of-home care the court must hold the **first** dispositional review hearing no later than every 182 days after being removed from his or her home.

After the first dispositional review hearing, review hearings must be held no later than every 91 days for the first year that the youth is subject to the court's jurisdiction.

After the first year a review hearing shall be held no later than 182 days from the immediately preceding review hearings until the case is dismissed. MCL 712A.19(3).

The court must continue to approve or disapprove of a youth's placement at each dispositional review and permanency planning hearing held for every youth when placed in a Qualified Residential Treatment Program (QRTP). MCL 722.123a(6).

In the case of a youth who is placed in a QRTP for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a youth who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the youth in that setting. MCL 722.123a(7).

In-Home Placement

A review hearing shall be held not more than 182 days from the date a petition is filed to give the court jurisdiction over the youth and at least every 91 days for the first year that the youth is subject to the court's jurisdiction.

After the first year a review hearing shall be held no later than 182 days from the immediately preceding review hearings until the case is dismissed.

Note: A hearing may be held more frequently at the court's discretion. MCL 712A.19(2).

JJS Responsibilities

Submit to the court an Initial Services Plan (ISP), Updated Services Plan (USP), or Supplemental Updated Service Plan (SUSP), as indicated in [JJM 230, Juvenile Justice Service Plans](#). The court may also require a written summary report.

Escalation of Placement

A review hearing is required before a juvenile is moved to a more physically restrictive type of placement, unless the court in its dispositional order has provided for a more physically restrictive type of placement or the juvenile and a parent consent to the new placement in a writing filed with the court. MCR 3.945(A)(2)(b).

A juvenile, who has been ordered placed in a juvenile facility, may be released only with the approval of the court. MCR 3.945(A)(2)(b).

TO EXTEND COURT JURISDICTION

To extend jurisdiction to age 21 for youth whose commitments were for a Class I or Class II offense, for example, a life offense or a serious felony versus person, a hearing must be held, unless adjourned for good cause, as near as possible, but before, the juvenile's 19th birthday.

Not less than 14 days before a review hearing is conducted, the youth and parent must be given notice of the hearing and informed that the court may extend jurisdiction. MCR 3.945(B)(1). MDHHS is to prepare a commitment report for presentation at the hearing. MCR 3.945(B)(3). The juvenile justice updated service plan may serve as the commitment report.

When a youth is tried and sentenced in the same manner as an adult, the court of jurisdiction may place a juvenile on probation and

commit the youth to MDHHS under Youth Rehabilitation Services Act, 1974 PA 150, as amended, MCL 803.301 et seq.

RELEASE HEARING

When a juvenile is being released from placement the JJS explains to the court the plan for continued supervision in the community based on a written determination from the residential facility staff that the juvenile has been rehabilitated and is considered to be no threat to the community.

The court must approve releases and may determine the approval process for release from the department/institution for all court wards, MCL 712A.18c(4) and Act 150 public wards, MCL 803.307(1).

A juvenile, who has been ordered placed in a juvenile facility, may be released only with the approval of the court. MCR 3.945(A)(2)(b).

The JJS must consult with local court policies for responsibilities related to a pretrial hearing.

PROBATION VIOLATION

Determination of whether to file a violation of probation, may include the following:

- Whether alternatives can be sought based on the nature of the offense. See [JJM 470, Detention Alternatives, Detention and Jail Requirements](#) for further options to determine what is the most appropriate option for the youth.
- Severity of the offense.
- Frequency that the youth has violated his or her probation previously.

Upon receipt of supplemental petition alleging a probation violation the court may order the youth to appear for a violation or detention hearing. MCR 3.944(A).

Violation Hearing

Violation hearings determine if the juvenile has violated conditions of community placement, probation and/or conditions of release

(technical or by committing a new offense). Violation hearings are held on motion of the court upon petition of any interested person. MCR 3.944(A)(1).

Detention Hearing

If a court orders the juvenile be apprehended, a hearing must take place within 24 hours after the juvenile has been taken into court custody. MCR 3.944(A)(1)(b).

JJS Responsibilities

See; [JJM 470, Detention Alternatives, Detention & Jail Requirements.](#)

TERMINATION OF JURISDICTION

The discharge/termination hearing is to evaluate the juvenile's preparedness for discharge from jurisdiction prior to age of automatic discharge.

The JJS in the county of commitment or county with case management responsibility who recommends discharge/termination from court jurisdiction must submit the required document to the committing court, documenting the reasons for the termination request. If the youth is in a training school the JJS is to consult with the training school staff regarding discharge and is to send the jointly developed report and recommendation to the committing court with a copy to the training school. (The same procedure must be used when a youth has escaped from the training school.)

The JJS must comply with the Michigan court rules when processing a termination from court wardship. Although court youths are referred to the agency for care and supervision, the court retains jurisdiction from the time of referral to the time of discharge.

At least 3 months prior to the youth's 19th birthday the court must conduct a final review hearing of the youth's commitment. MCR 6.938(A).

All 1974 PA 150 youth must be automatically discharged by the court at 19 years of age unless the committing offense was a Class I or II offense or the youth was sentenced by an adult court and the committing court extends jurisdiction to age 21 years. The youth is

then automatically discharged from state wardship at 21 years. MCL 803.307(7)(2). See *extending court jurisdiction* in this item for requirements to extend jurisdiction.

Discharge recommendations may be approved or denied by the committing court based on the JJS's report, without a formal hearing or as determined by the committing court. A hearing may be scheduled if the committing court determines that there is insufficient information upon which to base a final decision. The committing court will send written notification of its decision to the JJS, youth, youth's parents and prosecutor. The JJS must notify the victim of the discharge. All cases, services and payments relating to the P.A. 150 wardship are closed at discharge. The discharge must be noted in MiSACWIS as a closed case with the reason for closure.

Note: Dual wardships will revert to abuse/neglect legal status if the youth is under age 19 years at the time of discharge of Act 150 wardship.

The JJS must petition the committing court for discharge for:

- Age - four months before his/her 19th birthday or his/her 21st birthday.
- Satisfactory adjustment:
 - Youth who are at low risk of recidivism based on most recent Michigan Juvenile Justice Assessment (MJJAS) and have completed at least three months of aftercare services.
 - Youth who are at moderate risk and have completed at least six months of aftercare services in the community.
- A youth who is involved in a department-funded program, an intensive counseling program, educational program, or employment training program which would be interrupted if the youth was discharged, and youth and family request continuation of jurisdiction, the discharge petition may be delayed until age 19 or 21 as indicated above or until the natural conclusion of the program if sooner than the automatic discharge age.

- National service - A youth must be petitioned for discharge if he/she has been accepted into the armed services or a service agency such as Peace Corps or AmeriCorps.
- A youth who has been sentenced to jail or adult probation.
- Move to another state - The JJS may recommend discharge of a youth who has moved to another state after receiving a satisfactory report from the other state through the interstate services procedures.
- Maximum Benefit (supervisor approval needed) - A youth who has been in the community at least six months, has not responded to services, and would gain no additional benefit from continued jurisdiction, may be discharged on that basis. The JJS may make such recommendation to the committing court for **youth** who are at least 18 years of age and whose discharge will not cause a risk of harm to the community. All resources to assist the youth in completing treatment goals must be exhausted before this option can be used.
- Death - The JJS is to send a notice of discharge to the committing court.

The JJS may petition the court for termination of jurisdiction over the youth by completing the following:

- A request for discharge of wardship submitted on the [Request and Order to Terminate Court Jurisdiction, JC 36](#).
- A written report detailing the youth's placement history, adjustment, current status, and supporting information for request to terminate jurisdiction must be provided for the court hearing. A minimum of three copies are required.

Note: Do not attach the report to the petition.

JJS Responsibilities

Submit to the court, prepared in collaboration with the institution or agencies involved in providing services to the juvenile, an updated case service plan containing: MCR 3.945(B)(4)(a)-(g).

- The extent and nature of the youth's participation in education, counseling or work programs.

- The youth's willingness to accept responsibility for prior behavior.
- The youth's behavior in his or her current placement.
- The prior record and character of the youth and his or her physical and mental maturity.
- The youth's potential for violent conduct as demonstrated by prior behavior.
- The recommendations of the institution, agency, or facility charged with the youth's care, for the youth's release or continued custody.
- Other information the prosecuting attorney or juvenile may submit.

Court Hearing

The JJS is to petition the court for a final review hearing to be held no less than three months before the end of juvenile's probation and commitment. MCL 712A.18i(7).

Prepare and submit to the court a report demonstrating the youth has been rehabilitated and is not a risk to public safety. At that hearing the JJS is to present to the court an updated case service plan prepared in collaboration with the institution or agencies involved in providing services to the juvenile. The report is to indicate the extent to which the juvenile has been rehabilitated and is or is not a risk to public safety.

Submit copies of the current MJJAS Reentry assessment and JJ Strengths and Needs assessment to the court.

Without Court Hearing

The worker must submit a request for discharge of wardship on the Request and Order Terminating Court Jurisdiction, JC 36.

A written report detailing the youth's placement history, adjustment, current status, and supporting information for request to terminate jurisdiction may be requested by the local court.

LEGAL BASE

Federal

The Social Security Act, 42 USC 675.

The status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship, and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

State

The Probate Code, 1939 PA 288, as amended, MCL 712A.4(1).

If a juvenile 14 years of age or older is accused of an act that if committed by an adult would be a felony, the judge of the family division of circuit court in the county in which the offense is alleged to have been committed may waive jurisdiction under this section upon motion of the prosecuting attorney. After waiver, the juvenile may be tried in the court having general criminal jurisdiction of the offense.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18(1).

If it determined the youth committed an offense, the court may order disposition that is appropriate to the welfare of the youth and society.

If the court finds that a juvenile concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (10), if the

court finds that a juvenile is within this chapter, the court shall order the juvenile returned to his or her parent if the return of the juvenile to his or her parent would not cause a substantial risk of harm to the juvenile or society.

Youth Rehabilitation Services Act, 1974 PA 150 as amended, MCL 803.301 et seq.

When a youth is tried and sentenced in the same manner as an adult, the court of jurisdiction may place a juvenile on probation and commit the youth to MDHHS.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18d(1).

The court must consider several factors in determining whether jurisdiction over a juvenile shall continue.

The Probate Code, 1939 PA 288, as amended, MCL 712A.19(2).

When a youth remains in his or her home and remains under court jurisdiction a review hearing shall be held no later than 182 days after petition is filed and then 91 days after for the first year.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18c(4).

If the court has retained jurisdiction over a child under this section, the child may be released only with the approval of the court. Except as otherwise provided in section 18d, the child shall be automatically released upon reaching 19 years of age.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18i(7).

The court shall conduct a final review of the juvenile's probation not less than 3 months before the end of the probation period. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose the sentence.

Youth Rehabilitation Services Act, 1974 PA 150 as amended, MCL 803.307(1).

A youth accepted by a youth agency remains a public ward until discharged from public wardship with the approval of any of the following and, if placed in an institution, shall remain until released

with the approval of any of the following circumstances set forth in MCL 803.307.

Youth Rehabilitation Services Act, 1974 PA 150 as amended MCL 803.307(7)(2).

Except as otherwise provided in this section, a youth accepted as a public youth shall be automatically discharged from public wardship upon reaching the age of 19. Except as provided in subsection (3), a youth committed to a youth agency under section 18(1)(e) of chapter XIIA of 1939 PA 288, MCL 712A.18, for an offense that, if committed by an adult, would be a violation or attempted violation of section 72, 83, 84, 86, 88, 89, 91, 110a(2), 186a, 316, 317, 349, 520b, 520c, 520d, 520g, 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.83, 750.84, 750.86, 750.88, 750.89, 750.91, 750.110a, 750.186a, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, 750.530, and 750.531, or section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, shall be automatically discharged from public wardship upon reaching the age of 21. Except as provided in subsection (4), a youth committed to a youth agency under section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1, shall be automatically discharged from public wardship upon reaching the age of 21.

Child Care Organizations Act, 1973 PA 116, MCL 722.123a(6).

At each dispositional review hearing and permanency planning hearing held with respect to the child, the court shall approve or disapprove the qualified residential treatment program placement.

Child Care Organizations Act, 1973 PA 116, MCL 722.123a(7).

In the case of a child who is placed in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months, or, in the case of a child who has not attained age 13, for more than 6 consecutive or nonconsecutive months, the department shall obtain the signed approval of the director of the department for the continued placement of the child in that setting.

**Michigan Court
Rule****Michigan Court Rules, 3.935(B)(3).**

The court shall determine whether the petition should be dismissed, whether the matter should be referred to alternate services pursuant to the Juvenile Diversion Act, MCL 722.821 et seq., whether the matter should be heard on the consent calendar as provided by MCR 3.932(C), or whether to continue the preliminary hearing.

Michigan Court Rules, 3.943(A).

A dispositional hearing is conducted to determine what measures the court will take with respect to a juvenile and, when applicable, any other person, once the court has determined following trial or plea that the juvenile has committed an offense.

Michigan Court Rules, 3.945(B)(1).

When a juvenile committed under MCL 712A.18(1)(e) for an offense specified in MCL 712A.18d remains under court jurisdiction after the juvenile's 18th birthday, the court must conduct a hearing to determine whether to extend the court's jurisdiction to age 21, pursuant to MCL 712A.18d.

Unless adjourned for good cause, a commitment review hearing must be held as nearly as possible to, but before, the juvenile's 19th birthday.

Notice of the hearing must be given to the prosecuting attorney, the agency or the superintendent of the institution or facility to which the juvenile has been committed, the juvenile, and, if the address or whereabouts are known, the parent, guardian or legal custodian of the juvenile, at least 14 days before the hearing. The notice must clearly indicate that the court may extend jurisdiction over the juvenile until the juvenile reaches 21 years of age and must include advice to the juvenile and the parent, guardian, or legal custodian that the juvenile has the right to an attorney.

Michigan Court Rules, 3.943(B).

The interval between the plea of admission or trial and disposition, if any, is within the court's discretion. When the juvenile is detained, the interval may not be more than 35 days, except for good cause.

The interval between the plea of admission or trial and disposition, if any, is within the court's discretion. When the juvenile is detained, the interval may not be more than 35 days, except for good cause.

Michigan Court Rules, 3.945(A)(1).

At a dispositional review hearing, the court may modify or amend the dispositional order or treatment plan to include any disposition permitted by MCL 712A.18 and MCL 712A.18a or as otherwise permitted by law.

The court must conduct periodic hearings to review the dispositional orders in delinquency cases in which the juvenile has been placed outside the home. Such review hearings must be conducted at intervals designated by the court or may be requested at any time by a party or by a probation officer or caseworker. The victim has a right to make a statement at the hearing or submit a written statement for use at the hearing, or both. At a dispositional review hearing, the court may modify or amend the dispositional order or treatment plan to include any disposition permitted by MCL 712A.18 and MCL 712A.18a or as otherwise permitted by law. The Michigan Rules of Evidence, other than those with respect to privileges, do not apply.

Michigan Court Rules, 3.945(A)(2)(b).

A review hearing is required before a juvenile is moved to a more physically restrictive type of placement unless the court in its dispositional order has provided for a more physically restrictive type of placement. A review hearing is not required if the juvenile and a parent consent to the new placement in a writing filed with the court. A juvenile, who has been ordered placed in a juvenile facility, may be released only with the approval of the court.

Michigan Court Rules, 3.944(a)(1)(a).

Upon receipt of a sworn supplemental petition alleging that the juvenile has violated any condition of probation, the court may direct that the juvenile be notified pursuant to MCR 3.920 to appear for a hearing on the alleged violation, which notice must include a copy of the probation violation petition and a notice of the juvenile's rights as provided in subrule (C)(1).

Michigan Court Rules, 3.944(A)(1)(b).

Order that the juvenile be apprehended and brought to the court for a detention hearing, which must be commenced within 24 hours

after the juvenile has been taken into court custody, excluding Sundays and holidays as defined in MCR 8.110 (D)(2).

Michigan Court Rules, 3.944(A)(2)(b).

When a juvenile is apprehended pursuant to court order as provided in subrule (A)(1)(b), the officer must: (b) notify the custodial parent, guardian, or legal custodian that the juvenile has been taken into custody, of the time and place of the detention hearing, if known, and of the need for the presence of the parent, guardian, or legal custodian at the detention hearing.

Michigan Court Rules, 6.938(A).

The court must conduct a final review of the juvenile's probation and commitment not less than 3 months before the end of the period that the juvenile is on probation and committed to the state institution or agency. If the court determines at this review that the best interests of the public would be served by imposing any other sentence provided by law for an adult offender, the court may impose that sentence.

Michigan Court Rules, 3.945(B)(4)(a)-(g).

The court must extend jurisdiction over the juvenile until the age of 21, unless the juvenile proves by a preponderance of the evidence that the juvenile has been rehabilitated and does not present a serious risk to public safety. In making the determination, the court must consider the following factors:

- (a) the extent and nature of the juvenile's participation in education, counseling, or work programs;
- (b) the juvenile's willingness to accept responsibility for prior behavior;
- (c) the juvenile's behavior in the current placement;
- (d) the juvenile's prior record, character, and physical and mental maturity;
- (e) the juvenile's potential for violent conduct, as demonstrated by prior behavior;
- (f) the recommendations of the institution, agency, or facility charged with the juvenile's care regarding the appropriateness of the juvenile's release or continued custody; and

(g) any other information the prosecuting attorney or the juvenile submits.

Michigan Court Rules, 3.945(B)(3).

The Michigan Rules of Evidence do not apply, other than those with respect to privileges. The institution, agency, or facility must prepare a report for use at the hearing to extend jurisdiction. The report must contain information required by MCL 803.225. The court must consider this information in determining whether to extend jurisdiction beyond the age of 19.

POLICY CONTACT

Juvenile justice supervisors and management may submit policy clarification questions to juvenile-justice-policy@michigan.gov.